99th Congress, 1st Session - - - - - - - - - - - House Document 99-36

SUPPLEMENTARY AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE ITALIAN REPUBLIC ON THE MATTER OF SOCIAL SECURITY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN AGREEMENT BETWEEN THE UNITED STATES AND THE ITALIAN REPUBLIC WITH RESPECT TO SOCIAL SECURITY BENEFITS, PURSUANT TO 42 U.S.C. 433(e)(1)

MARCH 5, 1985.—Referred to the Committee on Ways and Means and ordered to be printed

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To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (P.L. 95–216; 42 U.S.C. 433(e)(1)), I transmit herewith the Supplementary Agreement between the United States of America and the Italian Republic on the matter of social security, signed at Rome April 17, 1984.

The U.S.-Italy social security agreement is similar in objective to the social security agreements in force with Belgium, Canada, the Federal Republic of Germany, Norway, Switzerland, and the United Kingdom. Such bilateral agreements, which are generally known as totalization agreements, provide for limited coordination between the United States and foreign social security systems to overcome the problems of gaps in protection and of dual coverage and taxation for workers who move from one country to the other. The present Supplementary Agreement with Italy would amend the original agreement to update and simplify several of its provisions which have caused both countries unforeseen and unnecessary administrative difficulties.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health and Human Services, which explains the provisions of the Supplementary Agreement, as well as the effect on social security financing as required by the same provision of the Social Security Act.

The Department of State and the Department of Health and Human Services join with me in commending the U.S.-Italy Supplementary Social Security Agreement and related documents.

RONALD REAGAN.

THE WHITE HOUSE, *March 5, 1985.*

SUPPLEMENTARY AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND THE ITALIAN REPUBLIC
ON THE MATTER OF SOCIAL SECURITY

The Government of the United States of America
and
The Government of the Italian Republic

Having considered the Agreement on the matter of Social Security, signed May 23, 1973 (hereinafter referred to as the "Agreement"), and the Administrative Protocol for the Implementation of the Agreement, signed November 22, 1977 (hereinafter referred to as the "Administrative Protocol"),

Having recognized the need to amend some sections of the Agreement,

Agree on the following:

Article 1

Article 2.1b of the Agreement and the proviso following this subparagraph shall be deleted and replaced by the following new paragraph:

"b. In the case of the United States, title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections."

Article 2

Article 8 of the Agreement shall be amended as follows:

(A) Article 8.1 shall be amended by striking out "Article 9.2" and substituting in lieu thereof "Article 8.4";

(B) Article 8.4 shall be redesignated as Article 8.5 and the following paragraph shall be inserted as the new Article 8.4:

"4. When entitlement to a benefit under the laws of one Contracting State is established in accordance with the provisions of paragraph 2, the agency of that State shall determine the theoretical basic benefit amount by considering all the periods of coverage completed under the laws of both States as if they had been completed exclusively under its own laws. That agency shall then establish the pro rata benefit amount on the basis of the theoretical basic benefit amount by applying the ratio of the total periods of coverage completed under the laws which it applies to the total of all the periods of coverage completed under the laws of the two States."; and

(C) The following new paragraphs shall be added as Article 8.6 and 8.7:

"6. Where a worker's periods of coverage are less than the minimum period required by paragraph 5 under the laws of one State, those periods of coverage will nevertheless be considered by the agency of the other State as if they were periods of coverage under its own laws in order to both establish the right to benefits under paragraph 2 and the amount of the benefit under paragraph 4, provided that:

a. The worker has the minimum period required by paragraph 5 under the laws of the other State; and

b. The individual claiming benefits based on the periods of coverage of the worker is not eligible for a benefit based on those periods of coverage under the laws of the other State without recourse to totalization under paragraph 2."

"7. For the purpose of taking into consideration the periods of coverage as provided in Article 8.2 of the Agreement and for the purpose of computing benefits as provided in Article 8.4 of the Agreement, the following rules apply (subject to the conditions established in Article 8.5 of the Agreement):

a. The periods of coverage completed under the laws of one State shall be added to the periods of coverage completed under the laws of the other State, even if these periods have already given rise to the payment of a benefit from the first State;

b. When a period of coverage credited under the laws of one State coincides with a period of coverage credited under the laws of the other State, the agency of each State shall consider for purposes of determining the right to benefits and the benefit amount only those periods that were credited under its laws."

Article 3

Article 9 of the Agreement shall be amended as follows:

(A) Article 9.1 and 9.2 shall be deleted and replaced by the following new paragraphs:

"1. When a worker, family member or survivor satisfies the conditions imposed by the laws of a Contracting State for eligibility to benefits without the need to invoke the provisions of Article 8.2, the agency of that State shall pay benefits solely on the basis of the periods of coverage completed exclusively under its own laws."

"2. When a person entitled to a pro rata benefit from a Contracting State in accordance with Article 8.2 of the Agreement subsequently satisfies the requirements for entitlement to an equal or higher benefit from the same State in accordance with Article 9.1, payment of the pro rata benefit shall terminate, either automatically or upon request, in which case the benefit established on the basis of Article 9.1 shall be paid.";

(B) Article 9.3, 9.4 and 9.5 shall be deleted.

Article 4

Article 10 of the Agreement shall be amended by adding the following paragraph as the new Article 10.3:

"3. When entitlement to a benefit under the laws of the United States is established in accordance with the provisions of Article 8.2, the requirements of Article 8.4 and Article 10.1a shall be considered to be met if the agency of the United States: (a) computes the theoretical basic benefit amount in accordance with United States laws, based on the worker's periods of coverage and average earnings credited exclusively under United States laws, and (b) computes the pro rata benefit amount by applying to the theoretical basic benefit amount the ratio of the duration of the worker's periods of coverage credited under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws."

Article 5

Article 11 of the Agreement shall be amended as follows:

(A) Article 11.1 shall be amended by striking out "Article 9.2" wherever it appears and substituting in lieu thereof "Article 8.4";

(B) Article 11.2 shall be deleted and replaced by the following new paragraph:

"2. For the purpose of recomputing United States benefits awarded under the provisions of Article 8.4, the requirements of paragraph 1 shall be considered to be met if the agency of the United States recomputes the theoretical basic benefit amount and pro rata benefit amount in accordance with Article 10.3 (a) and (b) to take into account additional periods of coverage completed under United States laws.";

(C) Article 11.3 shall be deleted.

Article 6

Article 12 shall be amended by striking out "Article 9.2" and substituting in lieu thereof "Article 8".

Article 7

Article 5 and Article 8 of the Administrative Protocol shall be deleted.

Article 8

1. This Supplementary Agreement shall enter into force on the first day of the month following the month in which the Contracting States shall have notified each other of the fulfillment of the procedures required by their respective internal rules for the entry into force of this Supplementary Agreement.

2. This Supplementary Agreement shall also apply to any application for benefits filed in accordance with the Agreement, provided that no final decision has been made on such application in accordance with the respective laws by the date on which this Supplementary Agreement enters into force.

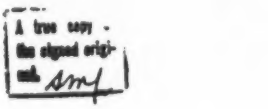
3. This Supplementary Agreement shall also apply as of the date it enters into force to any recomputation of benefits which are payable under the Agreement.

Done in Rome, on April 13th, 1984, in duplicate originals in the English and Italian languages, each equally valid.

For the Government of the United States of America

Maxwell M. Rabb

For the Government of the Italian Republic



ACCORDO AGGIUNTIVO ALL'ACCORDO
TRA GLI STATI UNITI D'AMERICA
E LA REPUBBLICA ITALIANA
IN MATERIA DI SICUREZZA SOCIALE

Il Governo degli Stati Uniti d'America
e
il Governo della Repubblica Italiana

Considerato l'Accordo in materia di Sicurezza Sociale firmato il 23 maggio 1973, (qui di seguito denominato "Accordo") ed il Protocollo Amministrativo per l'applicazione dell'Accordo, firmato il 22 novembre 1977, (qui di seguito denominato "Protocollo Amministrativo"),

Ravvisata l'opportunità di emendare alcune clausole dell'Accordo,

Convengono quanto segue:

Articolo 1

Il paragrafo 1 (b), dell'articolo 2 dell'Accordo e la clausola condizionale successiva sono soppressi e sostituiti dal seguente paragrafo:

"b. Per quanto riguarda gli Stati Uniti d'America, al Titolo II della legge sulla Sicurezza Sociale e regolamenti ad esso attinenti, ad eccezione delle Sezioni 226, 226A e 228 di tale titolo e regolamenti attinenti a quelle sezioni."

Articolo 2

L'articolo 8 dell'Accordo è modificato come segue:

(A) Il paragrafo 1 è modificato cancellando la dicitura "articolo 9, paragrafo 2" e sostituendola con "l'articolo 8, paragrafo 4";

(B) Il paragrafo 4, diventa paragrafo 5 ed il seguente paragrafo viene aggiunto quale nuovo paragrafo 4:

"4. Quando il diritto ad una prestazione secondo la legislazione di uno dei due Stati contraenti sia stato acquisito mediante le disposizioni di cui al paragrafo 2, l'istituzione di detto Stato determinerà l'importo della prestazione teorica prendendo in considerazione tutti i periodi di assicurazione compiuti in virtù della legislazione dei due Stati contraenti come se essi fossero stati compiuti esclusivamente in virtù della propria legislazione. L'istituzione in questione stabilirà quindi l'importo della prestazione in prorata sulla base dell'importo teorico della prestazione, mediante l'applicazione della proporzione tra la durata totale dei periodi di assicurazione compiuti in virtù della legislazione che essa applica e la durata totale di tutti i periodi di assicurazione compiuti in virtù della legislazione dei due Stati."; e

(C) I paragrafi seguenti vengono aggiunti quali paragrafi 6 e 7:

"6. Qualora i periodi di assicurazione compiuti da un lavoratore siano inferiori al periodo minimo stabilito dal paragrafo 5, ai sensi della legislazione di uno Stato, detti periodi di assicurazione saranno tuttavia presi in considerazione dall'istituzione dell'altro Stato come se fossero periodi di assicurazione ai sensi della propria legislazione al fine sia dell'accertamento del diritto a prestazioni secondo le disposizioni di cui al paragrafo 2, sia della determinazione dell'ammontare della prestazione secondo le disposizioni di cui al paragrafo 4, a condizione che:

a. il lavoratore abbia il periodo minimo previsto dal paragrafo 5, ai sensi della legislazione dell'altro Stato; e

b. la persona che richiede prestazioni sulla base dei periodi di assicurazione di un lavoratore non abbia già diritto ad una prestazione sulla base dei detti periodi di assicurazione ai sensi della legislazione dell'altro Stato, senza far ricorso alla totalizzazione di cui al paragrafo 2."

"7. Ai fini della presa in considerazione dei periodi di

assicurazione ai sensi dell'articolo 8, paragrafo 2 dell'Accordo, ed ai fini del calcolo delle prestazioni, ai sensi dell'articolo 8, paragrafo 4 dell'Accordo, si applicano le seguenti disposizioni (fatto salvo quanto stabilito dall'articolo 8, paragrafo 5, dell'Accordo):

a. ai periodi di assicurazione compiuti ai sensi della legislazione di uno Stato si aggiungono periodi di assicurazione compiuti ai sensi della legislazione dell'altro Stato, anche se detti periodi hanno già dato luogo alla corresponsione di una prestazione da parte del primo Stato;

b. Qualora un periodo di assicurazione compiuto ai sensi della legislazione di uno Stato, coincida con un periodo di assicurazione compiuto ai sensi della legislazione dell'altro Stato, l'Istituzione di ciascuno Stato, ai fini della determinazione del diritto a prestazione e dell'ammontare della prestazione stessa, prende in considerazione esclusivamente i periodi compiuti ai sensi della propria legislazione."

Articolo 3

L'articolo 9 dell'Accordo è modificato come segue:

(A) I paragrafi 1 e 2 dell'articolo 9 sono soppressi e sostituiti dai seguenti:

"1. Qualora un lavoratore, un suo familiare o un superstite soddisfi le condizioni stabilite dalla legislazione di uno Stato contraente per l'acquisizione del diritto alle prestazioni senza che sia necessario applicare le disposizioni di cui all'articolo 8, paragrafo 2, l'istituzione di detto Stato deve liquidare la prestazione solo sulla base dei periodi di assicurazione compiuti esclusivamente ai sensi della propria legislazione."

"2. Qualora l'avente diritto ad una prestazione in prorata da parte di uno Stato ai sensi dell'articolo 8, paragrafo 2 del-

l'Accordo, soddisfi successivamente i requisiti per la concessione di una prestazione di importo pari o più elevato da parte dello stesso Stato ai sensi del paragrafo 1 del presente articolo, la prestazione in prorata cessa di essere corrisposta d'ufficio o a domanda, e si fa luogo al pagamento della prestazione calcolata sulla base dell'articolo 9, paragrafo 1.";

(B) I paragrafi 3, 4 e 5 dell'articolo 9 sono soppressi.

Articolo 4

L'articolo 10 dell'Accordo è modificato con l'aggiunta del seguente paragrafo quale nuovo paragrafo 3:

"3. Quando il diritto ad una prestazione ai sensi della legislazione degli Stati Uniti sia stato acquisito mediante le disposizioni di cui al paragrafo 2, articolo 8, le disposizioni di cui al paragrafo 4, articolo 8 e al paragrafo 1.a, articolo 10, saranno parimenti considerate adempiute se l'Istituto degli Stati Uniti, (a) calcolerà l'importo base della prestazione teorica ai sensi della legislazione degli Stati Uniti, sulla base dei periodi di assicurazione e sulla media dei guadagni del lavoratore riconosciuti esclusivamente ai sensi della legislazione degli Stati Uniti, e (b) calcolerà l'importo delle prestazioni in prorata applicando all'importo base della prestazione teorica la proporzione tra la durata dei periodi di assicurazione del lavoratore riconosciuti ai sensi della legislazione statunitense e il periodo di carriera massimo previsto ai sensi della legislazione degli Stati Uniti."

Articolo 5

L'articolo 11 dell'Accordo è modificato come segue:

(A) Il paragrafo 1 dell'articolo 11 è modificato sostituendo il rinvio dell'articolo 9, paragrafo 2 ovunque menzionato con il rinvio all' "articolo 8, paragrafo 4";

(B) Il paragrafo 2 dell'articolo 11 è soppresso ed è sostituito dal seguente paragrafo:

"2. Ai fini del ricalcolo di prestazioni statunitensi concesse in base alle disposizioni del paragrafo 4 dell'articolo 8, le disposizioni di cui al paragrafo 1 saranno parimenti considerate adempiute se l'Istituto degli Stati Uniti ricalcolerà l'importo base della prestazione in prorata ai sensi dei paragrafi 3 (a) e (b) dell'articolo 10 per prendere in considerazione ulteriori periodi di assicurazione compiuti in virtù della legislazione degli Stati Uniti.";

(C) Il paragrafo 3 dell'articolo 11 è soppresso.

Articolo 6

L'articolo 12 dell'Accordo è modificato sostituendo il rinvio dell'articolo 9, paragrafo 2 con il rinvio dell'articolo 8.

Articolo 7

L'articolo 5 e l'articolo 8 del Protocollo Amministrativo sono soppressi.

Articolo 8

1. Il presente Accordo Aggiuntivo entrerà in vigore il primo giorno del mese successivo a quello in cui gli Stati contraenti si saranno reciprocamente notificato l'avvenuto adempimento delle procedure richieste dai rispettivi ordinamenti interni per l'entrata in vigore del presente Accordo Aggiuntivo.

2. Esso si applica altresì alle domande di pensione presentate ai sensi dell'Accordo, a condizione che, alla data di entrata in vigore del presente Accordo Aggiuntivo, non sia intervenuta una decisione definitiva ai sensi delle rispettive legislazioni.

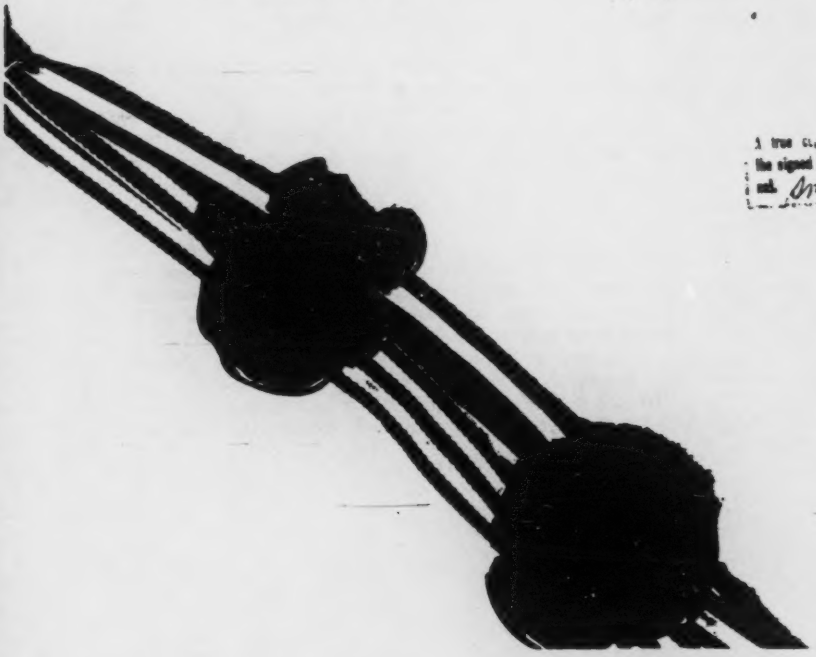
3. Il presente Accordo Aggiuntivo si applica altresì a partire dalla sua entrata in vigore a qualsiasi ricalcolo di prestazioni dovute in base all'Accordo.

Fatto a Roma, il 17 aprile 1984 in due originali nelle lingue italiana e inglese, i due testi facenti ugualmente fede.

Per il Governo degli Stati Uniti

Maxwell M. Rabb

Per il Governo della Repubblica Italiana



REPORT TO CONGRESS TO ACCOMPANY THE SUPPLEMENTARY SOCIAL SECURITY AGREEMENT BETWEEN THE UNITED STATES AND ITALY

INTRODUCTION

The supplementary Social Security agreement between the United States and Italy is intended to modify certain provisions of the U.S.-Italian Social Security Agreement and related Administrative Protocol which entered into force on November 1, 1978. The original agreement was the first Social Security agreement concluded by the United States under the authority in section 233 of the Social Security Act. Like other section 233 agreements, the agreement with Italy is designed to eliminate dual Social Security coverage and taxation of the same work, and to help prevent gaps in Social Security protection for workers who divide their careers between the two countries. Under the agreement, it is possible for workers to qualify for partial U.S. or Italian benefits, called totalization benefits, based on combined work credits from both countries. Totalization benefit amounts are prorated based on the duration of a worker's coverage in the paying country.

The supplementary agreement, which was signed by representatives of the United States and Italian Governments on April 17, 1984, would amend the original agreement to update and simplify several of its provisions. The amendments are necessary, in part, to take account of changes in U.S. laws and regulations that have occurred since 1978. The primary purpose of the supplementary agreement, however, is to modify provisions of the original agreement which have caused both countries unnecessary administrative difficulties and created delays in processing claims filed under the agreement. The supplementary agreement is now being submitted to Congress for review in accordance with section 233(e) of the Social Security Act.

Accompanying this report is a paragraph-by-paragraph explanation of the supplementary agreement (Annex A) and the estimate required by section 233(e)(1) on the effect of this agreement on income and expenditures of the U.S. Social Security program (Annex B). Also included is a marked-up version of the original agreement text showing the changes that will be made as a result of the supplementary agreement (Annex C).

MAIN PROVISIONS

The supplementary agreement will make several changes in the totalization benefit provisions of the original agreement, but will not affect existing provisions for the elimination of dual Social Security coverage and taxation. The basic rules for determining entitlement to and the amount of U.S. and Italian totalization benefits based on combined work credits are contained in several separate provisions of the original agreement and administrative protocol. The supplementary agreement will simplify the original texts by consolidating these benefit provisions in a single article of the agreement. In addition, the supplementary agreement will modify the basic rules in three major respects.

(1) Election Provision

The supplementary agreement will eliminate a provision in the original agreement which permits persons potentially entitled to both a regular national law benefit and a totalization benefit from the same country to choose which benefit they wish to receive. This election provision, set forth in Article 9 of the original agreement, means, for example, that a person who has worked in both the United States and Italy and who has already earned sufficient coverage under the U.S. system to be entitled to a regular U.S. benefit, must nevertheless be given the opportunity to elect to receive a pro rata U.S. totalization benefit computed on the basis of his combined U.S. and Italian coverage.

The right to such an election was a principle established in the 1951 U.S.-Italy treaty which committed the two countries to establish a totalization arrangement. However, experience has shown this election provision to be both unnecessary and undesirable. It is unnecessary because the amount of a person's regular benefit under a country's national law is virtually always equal to or higher than any totalization benefit for which he may qualify from that country. In effect, this makes the election opportunity meaningless. As would be expected, claimants who qualify for both benefits invariably choose to receive the higher national law benefit. The election provision is undesirable because it significantly complicates administration of the agreement. In every case where there is potential entitlement to both regular and totalization benefits, one or both countries must calculate two separate benefit amounts and inform the claimant of his alternative benefit rights before a final determination can be made on the claim. Since providing this option offers no real advantage for the claimant, the extra work involved serves no useful purpose.

Article 3 of the supplementary agreement deletes the election provision with the result that persons who qualify for a regular national law benefit from a country will be entitled to receive only that benefit and will not be eligible to receive a totalization benefit from that country. This change makes the totalization benefit provisions of the U.S.-Italian agreement consistent with the benefit provisions in all other U.S. agreements.

(2) Simplified U.S. Benefit Computation Method

The supplementary agreement includes a provision authorizing the United States to use a simplified method of computing totalization benefit amounts. Part III of the original agreement establishes the basic rules for determining entitlement to and the amount of U.S. and Italian benefits for persons who have worked in both countries. Under the rules which apply to the United States, if a worker has at least six quarters of coverage under the U.S. Social Security program, the worker's coverage credits from both countries can be totalized, i.e., combined, to qualify for a U.S. benefit. If entitlement is established based on totalized credits, the amount of the benefit is determined by combining earnings records from both countries to compute a theoretical U.S. benefit amount. This amount is then prorated to establish a partial benefit based on the ratio of periods of coverage completed in the United States to the total periods completed in both countries. This benefit computation method is the one used in the first three Social Security agreements concluded by the United States—i.e., those with Italy, West Germany and Switzerland.

Experience in implementing these three agreements has shown that using foreign earnings information to compute U.S. benefit amounts is cumbersome for both the United States and the other country. The time required to secure foreign earnings records can exceed a year in some cases, which causes long delays in adjudicating U.S. totalization benefit claims.

To avoid the problems created by using foreign earnings data, the Department of Health and Human Services has revised its regulations to provide a new method of computing U.S. totalization benefits within the parameters of section 233. The revised regulations were published as a final rule in the Federal Register on July 24, 1984 (Vol. 49, No. 143, pp. 29771-29777). Under the new method, totalization benefit amounts are computed based on periods of coverage and earnings credited exclusively under U.S. law. All the social security agreements negotiated and submitted to Congress since the agreements with Italy, West Germany and Switzerland have been drafted so that they authorize the new method. Under the revised regulations, the original computation method will continue to apply under the first three agreements until they have been amended to authorize the new method.

Article 4 of this Supplementary Agreement would revise article 10 of the principal U.S.-Italian agreement to permit the United States to use the new computation method. The new method, which will shorten processing time and expedite the payment of totalization benefits, will result in approximately the same level of benefit payments as the original method. Under this method, the United States will compute the theoretical benefit on the basis of a worker's earnings level during the period he was actually covered under U.S. Social Security. The theoretical benefit will then be prorated to reflect the proportion of a coverage lifetime actually completed under the U.S. program. A coverage lifetime is defined in the revised regulations as the number of the worker's benefit computation years, i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.

(3) Recognition of Voluntary Coverage

The supplementary agreement eliminates a provision in the original agreement which prevents the United States from taking account of periods of voluntary coverage credited under the Italian social security system for purposes of determining eligibility for U.S. totalization benefits. Voluntary coverage is a common feature of many foreign social security programs. In general, voluntary coverage is intended to help people avoid gaps in their social security protection if they are not subject to compulsory coverage. Under Italian law, for example, people who are precluded from making compulsory contributions (e.g., during periods of unemployment or noncovered work) may, under certain conditions, elect to make voluntary contributions in order to maintain the continuity of their coverage.

In agreements negotiated since the conclusion of the agreement with Italy, the United States has agreed to take account of all periods of coverage credited under the other country's laws, regardless of whether U.S. laws would have provided coverage for such periods. Virtually all countries with social security agreements follow this practice. By permitting the United States to take account of Italian voluntary coverage, the supplementary agreement will bring the original U.S.-Italian agreement into conformity with other U.S. agreements concerning the treatment of voluntary coverage.

SUPPLEMENTARY AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE ITALIAN REPUBLIC ON THE MATTER OF SOCIAL SECURITY

The Government of the United States of America
and
The Government of the Italian Republic

Having considered the Agreement on the matter of Social Security, signed May 23, 1973 (hereinafter referred to as the "Agreement"), and the Administrative Protocol for the Implementation of the Agreement, signed November 22, 1977 (hereinafter referred to as the "Administrative Protocol"),

Having recognized the need to amend some sections of the Agreement,

Agree on the following:

This Supplementary Agreement has been concluded in accordance with Article 24.3 of the U.S.–Italian Social Security Agreement and will amend both the Agreement and the related Administrative Protocol, which forms an integral part of the Agreement. The Agreement with Italy, which became effective in November 1978, was the first Social Security agreement concluded by the United States under section 233 of the Social Security Act. In the six years since the Agreement took effect, both countries have recognized the need to amend certain of its provisions. In part, these amendments are necessary to take account of changes in U.S. law and regulations which have occurred since 1978. The primary reason for the amendments, however, is to modify those provisions of the Agreement which have caused both countries unnecessary and unforeseen administrative difficulties.

SUPPLEMENTARY AGREEMENT

Article I

Article 2.1b of the Agreement and the proviso following this subparagraph shall be deleted and replaced by the following new paragraph:

"b. In the case of the United States, title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections."

ANNOTATIONS AND COMMENTS

Article I of this Supplementary Agreement makes two changes in Article 2.1 of the original U.S.-Italian Social Security Agreement. First, it explicitly designates section 226A as one of the sections of the Social Security Act which is excluded from the application of the Agreement in accordance with Article 2.1b. Section 226A, which deals with Medicare coverage for certain persons suffering from renal disease, is excluded because totalization agreements are restricted in scope under U.S. law to the Federal Old-Age, Survivors and Disability Insurance Program. Section 226A was not mentioned as an exception in the original Agreement because it was added to the Social Security Act after the Agreement had entered into force.

Second, Article I deletes the proviso following Article 2.1b of the original Agreement which excludes periods of Italian voluntary coverage from the scope of the Agreement. Voluntary coverage is a common feature of many Social Security programs. In general, voluntary coverage is intended to help people who are not subject to compulsory coverage to avoid gaps in their Social Security protection. Under Italian law, for example, people who are precluded from making compulsory contributions (e.g., during periods of unemployment or non-covered work) may, under certain conditions, elect to make voluntary contributions in order to maintain the continuity of their coverage.

In agreements negotiated since the conclusion of the Agreement with Italy, the United States has adopted the position of virtually all other countries with agreements by taking account of all periods of coverage credited under the other country's laws, regardless of whether those periods would have been considered periods of coverage had they been completed under U.S. laws. Deleting the proviso in Article 2.1b will bring the U.S.-Italian Agreement into conformity with other U.S. agreements concerning the treatment of voluntary coverage. This change will permit the United States to take account of both voluntary and compulsory coverage under Italian law for purposes of determining eligibility for pro rata U.S. benefits.

SUPPLEMENTARY AGREEMENT

Article 2

Article 8 of the Agreement shall be amended as follows:

(A) Article 8.1 shall be amended by striking out "Article 9.2" and substituting in lieu thereof "Article 8.4";

(B) Article 8.4 shall be redesignated as Article 8.5 and the following paragraph shall be inserted as the new Article 8.4:

"4. When entitlement to a benefit under the laws of one Contracting State is established in accordance with the provisions of paragraph 2, the agency of that State shall determine the theoretical basic benefit amount by considering all the periods of coverage completed under the laws of both States as if they had been completed exclusively under its own laws. That agency shall then establish the pro rata benefit amount on the basis of the theoretical basic benefit amount by applying the ratio of the total periods of coverage completed under the laws which it applies to the total of all the periods of coverage completed under the laws of the two States."; and

(C) The following new paragraphs shall be added as Article 8.6 and 8.7:

"6. Where a worker's periods of coverage are less than the minimum period required by paragraph 3 under the laws of one State, those periods of coverage will nevertheless be considered by the agency of the other State as if they were periods of coverage under its own laws in order to both establish the right to benefits under paragraph 2 and the amount of the benefit under paragraph 4, provided that:

ANNOTATIONS AND COMMENTS

The basic rules for determining entitlement to and the amount of U.S. and Italian totalization benefits based on combined work credits are contained in several separate provisions of the principal Agreement and the Administrative Protocol. Article 2 of this Supplementary Agreement is intended to simplify the original texts by consolidating these benefit provisions in a single Article (Article 8) of the principal Agreement. In accordance with Article 2 of this Supplementary Agreement, Article 9.2 of the principal Agreement becomes new Article 8.4; Article 5.4 of the Administrative Protocol becomes new Article 8.6; and Article 5.1a and b of the Protocol becomes new Article 8.7a and b. The texts of the original provisions have been modified, where necessary, to conform to other amendments made by this Supplementary Agreement.

a. The worker has the minimum period required by paragraph 5 under the laws of the other State; and

b. The individual claiming benefits based on the periods of coverage of the worker is not eligible for a benefit based on those periods of coverage under the laws of the other State without recourse to totalization under paragraph 2."

"7. For the purpose of taking into consideration the periods of coverage as provided in Article 8.2 of the Agreement and for the purpose of computing benefits as provided in Article 8.4 of the Agreement, the following rules apply (subject to the conditions established in Article 8.5 of the Agreement):

a. The periods of coverage completed under the laws of one State shall be added to the periods of coverage completed under the laws of the other State, even if these periods have already given rise to the payment of a benefit from the first State;

b. When a period of coverage credited under the laws of one State coincides with a period of coverage credited under the laws of the other State, the agency of each State shall consider for purposes of determining the right to benefits and the benefit amount only those periods that were credited under its laws."

SUPPLEMENTARY AGREEMENT

Article 3

Article 9 of the Agreement shall be amended as follows:

(A) Article 9.1 and 9.2 shall be deleted and replaced by the following new paragraphs:

"1. When a worker, family member or survivor satisfies the conditions imposed by the laws of a Contracting State for eligibility to benefits without the need to invoke the provisions of Article 8.2, the agency of that State shall pay benefits solely on the basis of the periods of coverage completed exclusively under its own laws."

"2. When a person entitled to a pro rata benefit from a Contracting State in accordance with Article 8.2 of the Agreement subsequently satisfies the requirements for entitlement to an equal or higher benefit from the same State in accordance with Article 9.1, payment of the pro rata benefit shall terminate, either automatically or upon request, in which case the benefit established on the basis of Article 9.1 shall be paid.";

(B) Article 9.3, 9.4 and 9.5 shall be deleted.

ANNOTATIONS AND COMMENTS

Unlike other U.S. Agreements, the Agreement with Italy contains a provision which permits persons who are potentially entitled to both regular national law benefits and totalization benefits from the same country to choose which benefit they wish to receive. This requirement, set forth in Article 9 of the principal Agreement, means, for example, that a person who has worked in both the United States and Italy and who has already earned sufficient coverage under the U.S. system to be entitled to a regular U.S. benefit, must nevertheless be given the opportunity to elect to receive a U.S. totalization benefit computed on the basis of his combined U.S. and Italian coverage. Article 3 of this Supplementary Agreement deletes this benefit election provision.

The right to such an election is a principle established in the 1951 U.S.-Italy treaty which committed the two countries to establish a totalization arrangement. The negotiators of the Agreement felt compelled to recognize this principle; however, experience has shown that the election provision is both unnecessary and undesirable.

It is unnecessary because the amount of a worker's regular benefit under the national law of a country is virtually always equal to or higher than any pro rata benefit for which he may qualify from that country. In effect, this makes the election opportunity meaningless. As would be expected, claimants who qualify for both benefits invariably choose to receive the higher national law benefit. The election provision is undesirable because it significantly complicates administration of the Agreement. In every case where there is potential entitlement to both regular and pro rata benefits, one or both countries must calculate two separate benefit amounts and inform the claimant of his alternative benefit rights before a final determination can be made on the claim. Since providing this option offers no real advantage for the claimant, the extra work involved serves no useful purpose.

SUPPLEMENTARY AGREEMENT

Article 4

Article 10 of the Agreement shall be amended by adding the following paragraph as the new Article 10.3:

"3. When entitlement to a benefit under the laws of the United States is established in accordance with the provisions of Article 8.2, the requirements of Article 8.4 and Article 10.1a shall be considered to be met if the agency of the United States: (a) computes the theoretical basic benefit amount in accordance with United States laws, based on the worker's periods of coverage and average earnings credited exclusively under United States laws, and (b) computes the pro rata benefit amount by applying to the theoretical basic benefit amount the ratio of the duration of the worker's periods of coverage credited under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws."

ANNOTATIONS AND COMMENTS

Article 3 of this Supplementary Agreement deletes the election provision contained in Article 9 of the principal Agreement. Under revised Article 9, persons who qualify for a regular national law benefit from a country will be entitled to receive only that benefit and will not be eligible to receive a pro rata benefit from that country. This change makes the totalization benefit provisions of the U.S.-Italian Agreement consistent with similar provisions in all other U.S. agreements.

Articles 8, 9 and 10 of the principal Agreement establish the basic rules for determining entitlement to and the amount of U.S. and Italian benefits for persons who have worked in both countries. Under the rules which apply to the United States, if a worker has at least six quarters of coverage under the U.S. Social Security program, the worker's coverage credits from both countries can be totalized, i.e., combined, to qualify for a U.S. benefit. If entitlement is established based on totalized credits, the amount of the benefit is determined by combining earnings records from both countries to compute a theoretical U.S. benefit amount. This amount is then prorated to establish a partial benefit based on the ratio of periods of coverage completed in the United States to the total periods completed in both countries. This computation method is the one used in the first three Social Security agreements concluded by the United States--i.e., those with Italy, West Germany and Switzerland.

Experience in implementing these three agreements has shown that using foreign earnings information to compute U.S. benefit amounts is cumbersome for both the United States and the other country. The time required to secure foreign earnings records can exceed a year in some cases, which causes long delays in adjudicating U.S. totalization benefit claims.

ANNOTATIONS AND COMMENTS

To avoid the problems created by using foreign earnings data, the Department of Health and Human Services has revised its regulations to provide a new method of computing U.S. totalization benefits within the parameters of section 233. The revised regulations were published as a final rule in the Federal Register on July 24, 1984 (Vol. 49, No. 143, pp. 29771-29777). Under the new method, totalization benefit amounts are computed based on periods of coverage and earnings credited exclusively under U.S. law. All the social security agreements negotiated and submitted to Congress since the agreements with Italy, West Germany and Switzerland have been drafted so that they authorize the new method. Under the revised regulations, the original computation method will continue to apply under the first three agreements until they have been amended to permit use of the new method.

Article 4 of this Supplementary Agreement would revise Article 10 of the principal U.S.-Italian agreement to permit the United States to use the new computation method. The new method will shorten processing time and expedite the payment of totalization benefits. Under this method, the United States will compute the theoretical benefit on the basis of a worker's earnings level during the period he was actually covered under U.S. Social Security. The theoretical benefit will then be prorated to reflect the proportion of a coverage lifetime actually completed under the U.S. program. A coverage lifetime is defined in the revised regulations as the number of the worker's benefit computation years, i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.

Under the new method, the theoretical benefit approximates the benefit amount to which the worker would have been entitled had he worked a full lifetime under the U.S. system at the same relative earnings level as during his actual periods of U.S. coverage. The prorata benefit that is payable reflects the portion of the worker's coverage lifetime spent under the U.S. system. The new method is comparable to the computation methods used by many Western European countries, which compute totalization benefits based only on earnings credited under their own social security systems.

SUPPLEMENTARY AGREEMENT

Article 5

Article 11 of the Agreement shall be amended as follows:

(A) Article 11.1 shall be amended by striking out "Article 9.2" wherever it appears and substituting in lieu thereof "Article 8.4";

(B) Article 11.2 shall be deleted and replaced by the following new paragraph:

"2. For the purpose of recomputing United States benefits awarded under the provisions of Article 8.4, the requirements of paragraph 1 shall be considered to be met if the agency of the United States recomputes the theoretical basic benefit amount and pro rata benefit amount in accordance with Article 10.3 (a) and (b) to take into account additional periods of coverage completed under United States laws.";

(C) Article 11.3 shall be deleted.

ANNOTATIONS AND COMMENTS

Under the new Article 11.2, which is incorporated into the principal Agreement by Article 5 of this Supplementary Agreement, the United States is authorized to recompute U.S. pro rata benefits using the new U.S. totalization computation method. (See annotation to Article 4 above.) The new method could be used whether the initial benefit amount had been computed under the old or the new method.

Article 5 of this Supplementary Agreement also changes the cross-reference in Article 11.1 to conform to changes resulting from this Supplementary Agreement. In addition, it deletes provisions in Article 11.2 and 11.3 which relate to the benefit election provisions repealed by Article 3 of this Supplementary Agreement.

SUPPLEMENTARY AGREEMENT

Article 6

Article 12 shall be amended by striking out "Article 9.2" and substituting in lieu thereof "Article 8".

Article 7

Article 5 and Article 8 of the Administrative Protocol shall be deleted.

ANNOTATIONS AND COMMENTS

Article 6 changes the cross-reference in Article 12 of the principal Agreement to conform to a change resulting from this Supplementary Agreement.

Although Article 7 of this Supplementary Agreement deletes all of Article 5 of the Administrative Protocol, several of the provisions contained in Article 5 have been moved to the principal Agreement. Article 5.1a and b of the Protocol become new Article 8.7a and b of the principal Agreement, and Article 5.4 of the Protocol becomes new Article 8.6 of the principal Agreement. Thus, only Article 5.1c, 5.2, 5.3 and 5.5 are actually being deleted.

Article 5.1c and 5.2 of the Administrative Protocol, which establish special rules concerning the treatment of Italian voluntary coverage, are no longer necessary now that the proviso following Article 2.1b of the principal Agreement is being deleted. The proviso prevented the United States from taking account of certain types of voluntary coverage credited under the Italian system. Since Article 1 of this Supplementary Agreement removes this limitation, Articles 5.1c and 5.2 of the Protocol are being deleted, with the result that Italian periods of voluntary coverage will be treated by both countries in the same manner as compulsory coverage.

SUPPLEMENTARY AGREEMENT	ANNOTATIONS AND COMMENTS
	In line with these changes, the text of Article 5.1b, which is incorporated as the new Article 8.7b of the principal Agreement, has been revised in order to eliminate the distinction between compulsory and voluntary coverage.
	Article 5.3 of the Administrative Protocol deals with the rounding of U.S. pro rata benefits. Changes to the Social Security Act which became effective after the text of the U.S.-Italian agreement was negotiated, have made the procedure in Article 5.3 obsolete. Revised procedures have since been incorporated in U.S. regulations and Article 5.3 is therefore being deleted.
	Article 5.5 of the Protocol is being deleted because it pertains to the benefit election provisions repealed by Article 3 of this Supplementary Agreement.
	Article 8 is also being deleted from the Administrative Protocol; however, only Article 8.1 and 8.2(a) are actually being dropped. Article 8.2(b) is being retained as the new Article 9.2 of the principal Agreement. Article 8.1 and 8.2(a) of the Protocol are no longer needed since, under the new computation method, the United States will not recompute pro rata benefits based on additional Italian earnings. Moreover, with respect to the current computation method, Article 8.1 merely outlines procedures, most of which are addressed in current regulations.
Article 8	
1. This Supplementary Agreement shall enter into force on the first day of the month following the month in which the Contracting States shall have notified each other of the fulfillment of the procedures required by their respective internal rules for the entry into force of this Supplementary Agreement.	Article 8.1 provides that each country will follow its own procedures for approval of the Supplementary Agreement. In Italy, the Supplementary Agreement is subject to Parliamentary review. In the United States, the Supplementary Agreement must be presented to the Congress for a review period during which at least one House has been in session on each of 60 days as required by section 233(e) of the Social Security Act. The Supplementary Agreement will enter into force on the first day of the calendar month after each Government has received formal notification of approval from the other Government.

SUPPLEMENTARY AGREEMENT

2. This Supplementary Agreement shall also apply to any application for benefits filed in accordance with the Agreement, provided that no final decision has been made on such application in accordance with the respective laws by the date on which this Supplementary Agreement enters into force.

3. This Supplementary Agreement shall also apply as of the date it enters into force to any recomputation of benefits which are payable under the Agreement.

Done in Rome, on April 17, 1984, in duplicate originals in the English and Italian languages, each equally valid.

For the Government of the United States of America	For the Government of the Italian Republic
(signed) Maxwell M. Rabb	(signed) Giulio Andreotti

ANNOTATIONS AND COMMENTS

Article 8.2 stipulates that the provisions of this Supplementary Agreement will apply to any application for benefits under the Agreement that has not been finally adjudicated at the time the Supplementary Agreement takes effect.

Article 8.3 authorizes the United States to recompute benefits payable under the Agreement using the new totalization computation method (see Articles 4 and 5 of this Supplementary Agreement) beginning with the date the Supplementary Agreement enters into force.

REPORT TO CONGRESS ON THE FINANCIAL EFFECT OF THE UNITED STATES-ITALIAN SUPPLEMENTARY SOCIAL SECURITY AGREEMENT

This report presents estimates of additional benefit costs to the U.S. social security program resulting from the proposed supplementary agreement with Italy. The estimates are based on the assumption that the agreement will become effective in 1985. The supplementary agreement will not affect the amount of Italian benefits paid or the amount of contribution income to either the U.S. or Italian social security system.

Cost estimates for the three major changes in the current agreement are as follows:

(1) There will be no additional cost from the elimination of the provision which allows persons entitled to both a regular national law benefit and a totalization benefit from the same country to choose which benefit they wish to receive.

(2) The additional cost resulting from the change in the method of computing U.S. totalization benefits is less than $50,000 in fiscal year 1985 and totals less than $0.2 million over the period 1985-90.

(3) There will be no measurable cost resulting from the elimination of the provision which precludes the United States from considering periods of Italian voluntary coverage in determining a person's right to U.S. benefits.

Agreement Between the UNITED STATES OF AMERICA and ITALY

Signed at Washington May 23, 1973

and

Administrative Protocol
Signed at Rome November 22, 1977

AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND THE ITALIAN REPUBLIC
ON THE MATTER OF SOCIAL SECURITY

The President of the United States of America and

The President of the Italian Republic

Desirous of regulating the relations between the two States in the field of social security, in accordance with the principles established under Article VII of the Agreement signed at Washington, D.C., September 26, 1951, supplementing the Treaty of Friendship, Commerce and Navigation between the United States of America and the Italian Republic signed at Rome, February 2, 1948, have agreed to conclude an Agreement for that purpose and have therefore appointed as their plenipotentiaries:

The President of the United States of America:

Caspar W. Weinberger, Secretary of Health, Education, and Welfare, and

The President of the Italian Republic:

Dionigi Coppo, Minister of Labor and Social Welfare,

who, having exchanged their full powers, found to be in good and due form, have agreed to the following provisions:

PART I

General Provisions

Article 1

For purposes of the application of this Agreement:

a. The term "territory" shall mean, as regards the United States of America, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa; and as regards the Italian Republic, Italy;

b. The term "national" shall mean, as regards the United States of America, "national of the United States" as defined in Section 101, Immigration and Nationality Act of 1952, as amended; and as regards the Italian Republic, an Italian national;

c. The term "laws", unless otherwise qualified, shall mean the laws, regulations, and any other measure concerning social security specified in Article 2 of this Agreement;

d. The term "competent authorities" shall mean the authorities responsible for the administration of the laws, and specifically: in the case of the United States of America: the Secretary of Health, Education, and Welfare (Ministro della Sanita, Educazione, e Previdenza Sociale); in the case of the Italian Republic: the Minister of Labor and Social Welfare (Ministro del Lavoro e della Previdenza Sociale);

e. The term "agency" shall mean for each Contracting State any agency, body or authority entrusted with the administration of an insurance system, under the laws specified in Article 2 of this Agreement;

f. The term "periods of coverage" shall mean the periods of payment of contributions or periods of earnings based on wages for employment or self-employment income, as defined or recognized as periods of coverage by the law under which such periods have been completed, or any similar periods insofar as they are recognized by such laws as equivalent to periods of coverage;

g. The term "workers" shall mean persons who have periods of coverage;

h. The term "family members" shall mean the persons defined as eligible for benefits on the earnings record or periods of coverage of a living worker, whichever is applicable, as established under the laws of each of the Contracting States;

i. The term "survivors" shall mean the persons defined as eligible for benefits on the earnings record or periods of coverage of a deceased worker, whichever is applicable, as established under the laws of each of the Contracting States;

j. The terms "benefits" and "pensions" shall mean any cash benefits payable under the laws specified in Article 2 of this Agreement;

k. The term "basic benefit amount" ("importo della prestazione") shall mean, as regards the United States of America, "primary insurance amount" as set forth in the table of benefits contained in section 215(a) of title II or deemed to be contained in such section of the Social Security Act of 1935, as amended, from which is derived by law the actual amount of the benefit which is payable; and as regards the Italian Republic, the amount of the benefit which is payable;

1. The term "beneficiary" shall mean any worker, family member or survivor who is entitled to benefits or pensions.

Article 2

1. For purposes of this Agreement the applicable laws relating to social security for disability, old-age, and survivorship are:

a. in the case of the Italian Republic, the legislation or compulsory general insurance for old-age, disability and survivors, as well as legislation providing benefits which are substitutes for benefits provided by said compulsory general insurance;

~~[b. in the case of the United States of America, title II of the Social Security Act of 1935, as amended, and regulations promulgated under the authority provided therein, except sections 226 and 228 of such title and regulations pertaining to such sections,~~

~~provided, however, that for the United States the totalization of the periods of coverage in accordance with this Agreement shall not apply to periods of voluntary coverage provided for by such laws.]~~

(NEW) b. In the case of the United States, title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections.

2. Notwithstanding the provisions of paragraph 1, as regards the Italian Republic, the present Agreement will be applied to legislation concerning other social security systems for similar cases which will be indicated by the competent authorities of the Italian Republic.

3. This Agreement shall also apply to future laws amending or supplementing the laws specified in this article.

Article 3

1. The present Agreement shall apply to workers who have periods of coverage under the laws, and to their family members or survivors.

2. The present Agreement shall not apply to periods of service as a diplomatic or career consular officer, or officer of a chancery, nor, except insofar as provided under Article 2.2, to periods of service covered under special systems for employees of the Government or of Government agencies or instrumentalities ("enti pubblici").

Article 4

The persons to whom the provisions of this Agreement apply shall have the same rights and obligations under the social security laws of each Contracting State under the same conditions as if such persons were covered solely under the social security laws of such State, whether they reside in the territory of a Contracting State or in a third State.

Article 5

For the purposes of eligibility for voluntary or optional insurance, in accordance with the provisions of the laws of a Contracting State, the periods of coverage completed under the laws of such State shall be combined, where necessary, with the periods of coverage completed under the laws of the other State.

Article 6

Except as otherwise provided in this Agreement, the persons eligible for benefits under the laws of one Contracting State,

including benefits arising under this Agreement, shall receive them fully and without limitation or restriction while they reside in the territory of the other State. Such benefits shall be paid by each State to persons to whom the provisions of this Agreement apply who reside in a third State on the same terms and to the same extent that such benefits would be paid if such persons had been covered entirely under the social security laws of the paying State.

PART II

Provisions Relating to the Applicable Laws

Article 7

1. Persons to whom this Agreement applies who are employed or self-employed (che svolgono la loro attivita) within the territory of one of the Contracting States shall be subject to the laws of such State, except as otherwise provided in this Article.

2. Services performed by a United States national in Italy which are covered under the laws of the United States shall remain covered under the laws of the United States.

3. Services performed by an Italian national in the United States for an Italian employer or for an enterprise controlled by an Italian firm shall be covered under the laws of Italy.

4. With respect to any services which are subject to the laws of both States, the following rules will be applied:

a. a national of one of the States who, with respect to the same period of work, would be subject to the laws of both States shall remain subject for such period to the laws of the State of which he is a national and shall be exempt from the laws of the State of which he is not a national;

b. a national of Italy or a national of both States who, with respect to the same period of work, would be subject to the laws of both States shall, for such period, elect to remain subject to the laws of one of the States and shall be exempt from the laws of the other State;

c. a person who is not a national of either State and who, with respect to the same period of work, is subject to the laws of both States shall be subject, for such period, to the laws of the State in which the work is performed and shall be exempt from the laws of the other State.

5. The exemptions provided under this Article shall be effective when the agency of the State in which the periods of work are covered pursuant to paragraph 4 certifies to the agency of the other State that such periods of work are covered under its laws.

6. The competent authorities of the two States may agree in the interest of a worker or on behalf of categories of workers to other exceptions to the rule provided in paragraph 1.

PART III

Special Provisions

Disability, Old-Age, and Survivorship

Article 8

1. With respect to a period of work which results in a period of coverage under the laws of both Contracting States, the agency of each State shall for purposes of Article 8.2 and

Article 8.4 take into consideration the period of coverage which results under the laws of that State.

2. If the laws of one State require completion of periods of coverage as a prerequisite for the acquisition, retention, or recovery of the right to benefits, the agency which applies such laws shall take into consideration, for such purpose, insofar as necessary, the periods of coverage completed under the laws of the other State, as if those were periods of coverage completed under the laws of the first State. Such agency shall take into consideration all the periods of coverage required to ensure the right to the fullest benefits provided for by the laws which it applies.

3. If the laws of a State establish as a condition for receiving certain benefits that the periods of coverage be completed in a given profession or occupation which is subject to a special system of insurance, in determining eligibility for such benefits only the periods completed under a corresponding system of the other State or, failing that, in the same profession or occupation -- even if a special system for said profession or occupation does not exist in the other State -- shall be counted. If the total of such periods of coverage does not result in entitlement under the special system, such periods shall be used to determine eligibility for benefits of the general system of insurance or some other applicable system of insurance; provided, however, that the provisions of this paragraph shall apply only when they would result in payment of the highest possible benefit amount.

(NEW) 4. When entitlement to a benefit under the laws of one Contracting State is established in accordance with the provisions of paragraph 2, the agency of that State shall determine the theoretical basic benefit amount by considering all the periods of coverage completed under the laws of both States as if they had been completed exclusively under its own laws. That agency shall then establish the pro rata benefit amount on the basis of the theoretical basic benefit amount by applying the ratio of the total periods of coverage completed under the laws which it applies to the total of all the periods of coverage completed under the laws of the two States.

5K The agency of Italy shall not be obliged to apply the provisions of this Article in the case of a worker who has less than one year of coverage under the Italian law; the agency of the United States shall not be obliged to apply the provisions of this Article in the case of a worker who has less than 6 quarters of coverage under the United States law.

(NEW) 6. Where a worker's periods of coverage are less than the minimum period required by paragraph 5 under the laws of one State, those periods of coverage will nevertheless be considered by the agency of the other State as if they were periods of coverage under its own laws in order to both establish the right to benefits under paragraph 2 and the amount of the benefit under paragraph 4, provided that:

(NEW) a. The worker has the minimum period required by paragraph 5 under the laws of the other State; and

(NEW) b. The individual claiming benefits based on the periods of coverage of the worker is not eligible for a benefit based on those periods of coverage under the laws of the other State without recourse to totalization under paragraph 2.

(NEW) 7. For the purpose of taking into consideration the periods of coverage as provided in Article 8.2 of the Agreement and for the purpose of computing benefits as provided in Article 8.4 of the Agreement, the following rules apply (subject to the conditions established in Article 8.5 of the Agreement):

(NEW) a. The periods of coverage completed under the laws of one State shall be added to the periods of coverage completed under the laws of the other State, even if these periods have already given rise to the payment of a benefit from the first State;

(NEW) b. When a period of coverage credited under the laws of one State coincides with a period of coverage credited under the laws of the other State, the agency of each State shall consider for purposes of determining the right to benefits and the benefit amount only those periods that were credited under its laws.

Article 9

~~1. When a worker, family member, or survivor satisfies the conditions imposed by the laws of a Contracting State for eligibility for benefits, without the need to invoke the provisions of Article 8, the agency of that State shall establish, according to the provisions of the said laws, the basic benefit amount based on the total periods of coverage completed by the worker under the laws of such State.~~

(NEW) 1. When a worker, family member or survivor satisfies the conditions imposed by the laws of a Contracting State for eligibility to benefits without the need to invoke the provisions of Article 8.2, the agency of that State shall pay benefits solely on the basis of the periods of coverage completed exclusively under its own laws.

~~2. Whether or not paragraph 1 applies, the agency of each of the States shall determine the theoretical basic benefit amount by considering all the periods of coverage completed under the laws of the two States as if they had been completed exclusively under its own laws. The agency in question shall then establish the pro rata basic benefit amount on the total periods of coverage completed under the laws which it applies to the total of all the periods of coverage completed under the laws of the two States.~~

(NEW) 2. When a person entitled to a pro rata benefit from a Contracting State in accordance with Article 8.2 of the Agreement subsequently satisfies the requirements for entitlement to an equal or higher benefit from the same State in accordance with Article 9.1, payment of the pro rata benefit shall terminate, either automatically or upon request, in which case the benefit established on the basis of Article 9.1 shall be paid.

~~3. The worker shall elect within a specified time whether benefits shall be awarded by each of the States in accordance with the provisions of paragraph 1 or paragraph 2, and such election shall be applicable to all benefits payable to the worker and family members by each State.~~

~~4. In the case of survivors, benefit amounts shall be established by each of the States under the provisions of paragraphs 1 and 2. Survivors benefits shall be awarded by each of the States based on the provisions of either paragraph 1 or 2, whichever results in the higher total benefits payable, unless all survivors eligible for benefits elect to receive the lower total benefits payable.~~

~~5. The elections provided for in paragraph 3 and paragraph 4 shall be final, except in situations where Article 11 applies.~~

Article 10

1. For purposes of the computation of the theoretical basic benefit amount, the agency of each Contracting State shall take account of a worker's earnings in the other State in the following manner:

a. as regards the agency of the United States, the earnings in any year to be taken into consideration for periods of coverage completed under Italian laws shall be the equivalent of the earnings credited under the system of insurance in Italy for such year, subject to the maximum creditable earnings limitation under the laws of the United States for such year.

b. as regards the agency of the Italian Republic, for the periods of coverage completed under the laws of the United States there shall be credited the average salary or average contributions derived exclusively from the salary received or the credited contributions resulting from the periods of coverage completed under the laws of Italy.

2. If, under the laws of one State, the amount of benefits varies according to the number of family members or survivors, the agency of such State shall also take into account family members or survivors who are residing in the territory of the other State.

(NEW) 3. When entitlement to a benefit under the laws of the United States is established in accordance with the provisions of Article 8.2, the requirements of Article 8.4 and Article 10.1a shall be considered to be met if the agency of the United States: (a) computes the theoretical basic benefit amount in accordance with United States laws, based on the worker's periods of coverage and average earnings credited exclusively under United States laws, and (b) computes the pro rata benefit amount by applying to the theoretical basic benefit amount the ratio of the duration of the worker's periods of coverage credited under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws.

Article 11

1. Upon application, benefits awarded under the provisions of Article ~~9.2~~ 8.4 shall be recomputed by both States in accordance with the provisions of Article ~~9.3~~ 8.4 to take into account additional periods of coverage completed under the laws of either Contracting State.

~~[2. Notwithstanding the provisions of Article 9.5, benefits shall be recomputed under the provisions of Article 9 when:~~

~~a. a worker who has made an election under Article 9.3 subsequently becomes eligible for benefits under the laws of one or both States without the need to invoke the provisions of Article 8; or~~

~~b. the method of computing benefits under the system of insurance of a State is changed by amendments to the law governing such computations.]~~

(NEW) 2. For the purpose of recomputing United States benefits awarded under the provisions of Article 8.4, the requirements of paragraph 1 shall be considered to be met if the agency of the United States recomputes the theoretical basic benefit amount and pro rata benefit amount in accordance with Article 10.3(a) and (b) to take into account additional periods of coverage completed under United States laws.

~~[3. Notwithstanding the provisions of Article 8.5, if the entitlement of all beneficiaries receiving benefits under the provisions of Article 8 terminates, the benefits of any person who later becomes entitled to benefits based on the periods of coverage of the same worker shall be computed under the provisions of Article 8.]~~

Article 12

If the beneficiary becomes eligible under Article ~~8.4~~ 8A for benefits paid by the agencies of both Contracting States and if the amount of such combined benefits is less than the benefit amount which would be payable, based on the minimum basic benefit amount, to such beneficiary by the agency of the State in which he resides, the agency of that State shall, at its own expense, pay the difference between the amount of such combined benefits and the amount of benefits which would be payable to such beneficiary based on such minimum basic benefit amount.

PART IV

Miscellaneous, Transitory, and Final Provisions

Article 13

The competent authorities and agencies of the two Contracting States shall assist each other in applying the present Agreement as if they were applying their respective laws; such reciprocal assistance shall be free of charge.

Article 14

1. The competent authorities of the two Contracting States shall by mutual agreement establish such administrative procedures as may be required to implement this Agreement and each competent authority shall designate one coordinating agency or organization to facilitate the application of this Agreement.

2. The competent authorities of the two States shall communicate to each other all information relating to regulations, administrative procedures, and amendments to their laws which may affect the application of this Agreement.

Article 15

The diplomatic and consular authorities of each Contracting State shall be empowered to address themselves directly to the competent authorities or agency of the other State in order to obtain useful information for safeguarding the interests of their own nationals, and may represent them without special mandate.

Article 16

1. Exemptions from duties, taxes, and fees provided for by the laws of either State shall also be valid for the application of the present Agreement, irrespective of the nationality of the beneficiaries.

2. The requirements imposed by the laws or regulations of either Contracting State relating to the certification ("legalizzazione") of all certificates or other documents shall be applied in respect to all certificates or other documents which must be presented for purposes of the application of this Agreement.

3. The certification as to the authenticity of a certificate or document, or a copy thereof, by the competent authorities or agency of one State shall be accepted as authentic by the competent authorities or agency of the other State.

Article 17

The competent authorities and the designated coordinating agencies or organizations of the two Contracting States may correspond directly with each other and with any persons wherever they may reside, whenever such correspondence is necessary for the administration of this Agreement. Correspondence may be drafted in the writer's official language.

Article 18

The petitions which the beneficiaries address to the competent authorities or agency of either Contracting State for the application of the present Agreement may not be rejected merely because they are written in the official language of the other State.

Article 19

1. The applications and other documents presented in writing to the competent authorities or agency of either Contracting State shall have the same effect as if they were presented to the corresponding authorities or agency of the other State.

2. An application for benefits filed with the competent authorities or agency of one State is to be considered as an application for the payment of benefits by the agency of the other State, if the applicant explicitly requests that his application be so considered.

3. An appeal which must be filed within a given period of time with the competent authorities or agency of one of the States shall be considered to have been filed within such time limit if the appeal has been filed within such a period of time with the competent authorities or agency of the other State. In such case the authorities or agency with which an appeal is filed shall without delay transmit the said appeal to the competent authorities or agency of the other State, and acknowledge to the appellant that the appeal has been received.

Article 20

1. The competent authorities of the two Contracting States shall jointly establish procedures to resolve any problems or disagreements which may arise with regard to the application or interpretation of the present Agreement.

2. The competent authorities of the two States shall establish a permanent arbitration procedure for the consideration and resolution of any problems or disagreements which cannot be resolved under procedures established in accordance with paragraph 1. The arbitral body established under this paragraph shall settle questions referred to it in accordance with the principles of this Agreement. Decisions of the arbitral body shall be final and binding for purposes of the question referred to it, on the competent authorities and agencies of both States.

3. The arbitral body established under paragraph 2 shall consist of three members. The competent authorities of the two States shall each designate one member. The third member shall be designated by agreement of the two competent authorities.

Article 21

1. Pending the final determination of a beneficiary's rights under this Agreement, including settlement of any question under Article 20 between the competent authorities and agencies of the two Contracting States, the beneficiary whose rights are involved shall be awarded provisional benefits in accordance with this Article until such time as such determination has been made.

2. Each agency shall award the beneficiary, as provisional benefits, the benefits, if any, to which he would be entitled under its own laws or under this Agreement.

3. a. The agencies of both States shall establish procedures for adjusting their respective liabilities for benefits during the period in which provisional benefits were paid pending the final determination referred to in paragraph 1.

b. In giving effect to such procedures, the agency of either State shall withhold from payments it makes, based on the rights of a beneficiary as finally determined, amounts permitted by the laws of that State sufficient to reimburse the agency of the other State for amounts paid as provisional benefits in excess of the amounts finally awarded to such beneficiary.

Article 22

1. The agencies of the Contracting States, which have obligations relating to benefits to be paid in the other State under the present Agreement, shall validly discharge such obligations in the currency of their own State.

2. In case provisions designed to restrict the exchange of currencies are issued in either State, both Governments shall immediately adopt the necessary measures to insure, in conformity

with the provisions of the present Agreement, the transfer of sums owed by either party.

Article 23

1. The provisions of this Agreement shall apply to any application for benefits (including a new application of an individual who has previously applied for benefits) which is filed on or after the date this Agreement enters into force.

2. In the application of the present Agreement, the periods of coverage completed prior to its entry into force shall be taken into consideration except that neither Contracting State shall take into account periods of coverage occurring prior to the effective date of its laws.

3. If previous claims were satisfied through a lump-sum payment because of insufficient periods of coverage and if, with the application of the provisions of this Agreement, the beneficiary meets the conditions required for receiving a pension, he may request a review of action taken on his case.

4. This Agreement shall not result in the payment of benefits for periods prior to the date of its entry into force.

Article 24

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

2. This Agreement shall enter into force on the first day of the month following the month in which the instruments of ratification are exchanged.

3. a. This Agreement may be amended from time to time by supplementary agreements which shall take effect on the first day of the month following the month in which the instruments of ratification of such supplementary agreements are exchanged; provided, however, that nothing in this paragraph shall be construed to prevent such supplementary agreements from being given retroactive effect if they so specify.

b. Any supplementary agreement which takes effect under the terms of this paragraph shall be deemed thereafter for purposes of this Article to be an integral part of this Agreement.

c. A meeting for the consideration of a supplementary agreement shall be called at the request of the competent authorities of either State.

4. This Agreement shall remain in force and effect until the expiration of one calendar year following the year in which written notice of its renunciation is delivered to the competent authorities of one Contracting State by the competent authorities of the other State.

5. If this Agreement is renounced, rights acquired shall be retained under the provisions of this Agreement and rights in the process of being acquired shall be recognized in conformity with supplementary agreements.

DONE in Washington on this twenty-third day of May, 1973, in duplicate, in English and Italian, the two texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

[1]

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC:

[2]

[1] Caspar W. Weinberger
[2] Dionigi Coppo

ADMINISTRATIVE PROTOCOL FOR THE IMPLEMENTATION OF THE AGREEMENT ON SOCIAL SECURITY

between the

UNITED STATES OF AMERICA

and the

ITALIAN REPUBLIC

Signed at Washington, D.C. on May 23, 1973

PART I

GENERAL PROVISIONS

Article I

DEFINITIONS

For the purposes of the application of the Agreement and this Protocol:

1. The term "Agreement" means the Agreement between the United States of America and the Italian Republic on the matter of Social Security signed at Washington, D.C., on May 23, 1973;

2. The term "claimant" means a worker, family member, or survivor who has filed an application for benefits under the laws of either State or of both States;

3. The term "provisional benefits" means any benefit to which a claimant may be entitled before a final determination as to the claimant's rights has been made;

4. The terms defined in Article 1 of the Agreement shall have the meaning given to them by the said Article.

Article 2

AGENCIES RESPONSIBLE FOR IMPLEMENTATION

1. The agencies responsible for applying this Protocol are:

(a) For the United States of America:

The Social Security Administration;

(b) For the Italian Republic:

- I.N.P.S. (Istituto Nazionale della Previdenza Sociale), General Directorate, Rome, for matters concerning disability, old-age and survivors insurance of employees, farmers, agricultural workers and sharecroppers, artisans, and businessmen;
- E.N.P.A.L.S. (Ente Nazionale di Previdenza e Assistenza per i Lavoratori dello Spettacolo), General Directorate, Rome, concerning disability, old-age and survivors insurance for workers in the entertainment business;
- I.N.P.D.A.I. (Istituto Nazionale di Previdenza per i Dirigenti di Aziende Industriali), General Directorate, Rome, concerning disability, old-age and survivors insurance for managerial personnel in industry;
- I.N.P.G.I. (Istituto Nazionale di Previdenza per i Giornalisti Italiani), General Directorate, Rome, concerning disability, old-age and survivors insurance for professional journalists.

2. The coordinating agencies designated under Article 14.1 of the Agreement to facilitate its application are:

(a) For the United States of America:

The Social Secuirty Administration;

(b) For the Italian Republic:

The Istituto Nazionale della Previdenza Sociale General Directorate, Rome.

3. In carrying out their responsibilities under Article 14.1 of the Agreement, the Coordinating Agencies designated in paragraph 2 of this Article shall be responsible for the development of uniform policies and procedures and their uniform implementation by the Agencies in their respective States; for providing a channel of communication between the Agencies of one State and the Agencies of the other State; for determining which Agency is competent for the determination of a particular claim; and for facilitating the resolution of any issues that arise between the Agencies of the two States that cannot be resolved directly.

PART II

PROVISIONS RELATING TO APPLICABLE LAWS

Article 3

COVERAGE AND EXEMPTIONS

1. The Agency of the State under whose laws the services of a worker will remain covered in accordance with paragraphs 2, 3, or 4 of Article 7 of the Agreement shall issue to the worker, his employer, or the Agency of the other State, a certificate to that effect when requested to do so by the worker, his employer, or the Agency of the other State.

2. An exemption from the laws of one of the States, as provided for in Article 7.4 of the Agreement, shall apply to the period of work for which the certificate referred to in paragraph 1 of this Article was issued.

3. An election provided for in Article 7.4b of the Agreement or in this paragraph shall be exercised within 3 months following the month in which a period of work for any employer begins or the right to amend the election arises. The election shall be binding with respect to that period of work. In the case of an Italian national who is not a national of both States, any such election may be amended during the second year after the beginning of the period of work and the election as amended shall be applicable from the date it is made for future periods of work where Article 7.4b of the Agreement applies; except that such an Italian national shall be afforded the opportunity to

further amend his election if he subsequently acquires or loses the status of permanent resident of the United States.

4. The obligation for payment of contributions and taxes in respect of old-age, survivors, and disability insurance of the United States of America shall be subject to the provisions of Chapter 2 and Chapter 21 of the Internal Revenue Code of 1954, as amended.

PART III

APPLICATION OF PARTICULAR PROVISIONS OF THE AGREEMENT REGARDING DISABILITY, OLD-AGE, AND SURVIVORS INSURANCE

Article 4

FILING AND PROCESSING CLAIMS

1. Claimants may avail themselves of their right to benefits under Articles 8 to 12 of the Agreement by filing an application with an Agency of either State, according to the rules of that Agency. Such application must specifically express intent to claim benefits from the Agency of the other State. An application with a Consulate of the United States of America located in the Italian Republic shall be deemed to be filed with the Agency of the United States of America; however, the Consulate of the United States of America with which the application was filed shall transmit, without delay, a copy thereof to the Italian Agency.

2. The date an application referred to in paragraph 1 is filed with the Agency of one State shall be recognized as the date of filing by the Agencies of both States; however, the claimant may request that an application be effective on a different date in the other State, within the limitations of and in conformity with the laws of the other State.

3. The Agency with which a claim was first filed shall transmit without delay to the Agency of the other State applications and other forms agreed upon by the Competent

Authorities of the two States. Such forms shall contain all available information considered necessary to credit periods of coverage completed in both States, and such other information for determining a claimant's entitlement to benefits and the amount of benefits, including earnings amounts needed for its own calculations by the U.S. Coordinating Agency. Earnings amounts provided by the Italian Agency for years in which coverage is reported in terms of contributions and not in terms of earnings may be amounts derived by converting contributions made by workers into earnings amounts, using conversion tables agreed upon by the Competent Authorities of both States. In the case of an application for a disability benefit or, when necessary for a survivor's benefit, the relevant medical documentation which the Agency has in its possession shall be enclosed with the application form. The data on applications and forms shall be duly authenticated by the Agency that transmits the forms, and data on the authenticated forms shall be accepted as valid as the data on the original documents from which the data were extracted.

4. The Agency of a State which receives an application filed in the other State shall transmit without delay to the Agency of the other State the earnings information and other information referred to in the preceding paragraph.

5. The Agency of each State after determining the benefit amount due a claimant under the Agreement shall promptly advise the Agency of the other State of the benefit amount.

6. Each Agency shall be the final judge of the quality or probative value of documentary evidence presented to it from whatever source.

7. The limitations and restrictions mentioned in Article 6 of the Agreement refer only to limitations and restrictions on payment of benefits based solely on the physical presence or residence of the beneficiary.

[Article 5

TOTALISATION AND PRO RATA CALCULATIONS

1. For the purpose of taking into consideration the periods of coverage as provided in Article 8 and for the purpose of computing benefits under Article 9.2 of the Agreement, the following rules apply (subject to the conditions established in Article 8.4 of the Agreement and the proviso in Article 3.1b of the Agreement):

a. The periods of coverage completed under the laws of one State shall be added to the periods of coverage completed under the laws of the other State, even if those periods have already given rise to the payment of a benefit from the first State;

b. When a period of coverage under compulsory insurance completed under the laws of one State coincides with a period of coverage under compulsory insurance completed under the laws of the other State, the Agency of each State shall consider for purposes of determining the right to benefits and the benefit amount only those periods that were completed under its laws;

c. If a period of coverage under compulsory insurance completed under the laws of one State coincides with a period of coverage based on voluntary insurance under the laws of the other State, only the period of coverage under compulsory insurance shall be considered.

2. For purposes of calculating a benefit payable by an]

Agency of the Italian Republic in accordance with Article 9.3 of the Agreement, if a period of coverage under voluntary insurance completed under Italian law coincides with a period of coverage under compulsory insurance completed under United States law, only the latter period shall be considered. In such cases, the period of voluntary coverage shall be considered by the above-mentioned Agency according to the provisions of Italian law.

3. For the purposes of calculating a benefit payable by the United States of America, the pro-rata basic benefit amount may be rounded to the nearest primary insurance amount appearing in Column IV of the table of benefits contained in section 215(a) of the Social Security Act (or deemed to be contained in such section) or to a primary insurance amount as set forth in an extension of that column from the minimum primary insurance amount down to the amount of $1.00 in increments to be determined by the competent Authority of the United States of America.

4. Where a worker's periods of coverage are less than the minimum period required by Article 8.4 of the Agreement under the laws of one State, those periods of coverage will nevertheless be considered by the Agency of the other State as if they were periods of coverage under its own laws in order to both establish the right to benefits under Article 8.3 of the Agreement and the amount of the benefit under Article 8.3 of the Agreement, provided that:

a. The worker has the minimum period required by

[Article 8.4 of the Agreement under the laws of the other State; and

b. The individual claiming benefits based on the periods of coverage of the worker is not eligible for a benefit based on those periods of coverage under the laws of the other State without recourse to totalization under Article 8.2 of the Agreement.

5. When a claimant is entitled to a benefit under the provisions of paragraph 1 of Article 8 of the Agreement which would result in a higher benefit amount than would result from the claimant's entitlement under the provisions of paragraph 2 of Article 8, the Agency shall award benefits in accordance with paragraph 1. The notice of award shall also advise the claimant that he has the right to elect to receive benefit payments as provided for in either paragraph 1 or paragraph 4 of Article 8, within 3 months from the date of the award.]

Article 6

RECOVERY OF OVERPAYMENTS

1. Whenever the Agency of one State has paid provisional benefits under paragraphs 1 and 2 of Article 21 of the Agreement to an individual in excess of the amount to which the individual is entitled under terms of the Agreement, the Agency may, within the conditions and limits prescribed by its laws, request the Agency of the other State to deduct the amount of the overpayment from the benefits which may later be payable by the other Agency to that individual, within the limits and conditions precribed by the law under which it operates.

2. When Agencies of both States have overpaid benefits to the same individual, an Agency may give precedence to recovery of the overpayment under its laws.

3. The Competent Authorities of both States shall establish by common agreement procedures for processing amounts of overpaid provisional benefits recovered by each State on the account of the other during the calendar year.

Article 7

MEDICAL EXAMINATIONS FOR DISABILITY

1. In making a determination of the degree of disability of a claimant or of a beneficiary for a benefit based on a disability, the Agency of each State shall take into account any medical findings provided by the Agency of the other State. This shall be without prejudice to the right of the Agency of each State to have the claimant examined by a qualified physician.

2. The Agency of one State shall make available to the Agency of the other State, at its request, any medical information and documentation concerning the claimant which may be in its possession.

3. Where the Agency of either State requires that the claimant submit to a medical examination, such examination shall if requested be arranged by the Agency of the State in which the claimant resides at the expense of the Agency which requests the examination. Where such a medical examination has been secured for its own purposes by an Agency which receives such a request, it shall furnish a report of the examination without expense to the other Agency.

Article 8

RECOMPUTATION OF BENEFITS

1. A beneficiary may file an application with the Agency of either State for a recomputation of the benefit amount in accordance with Article 11 1 of the Agreement, to take into account additional periods of coverage completed under the laws of either State. An application for recomputation may be filed within the time limits provided by the laws of the State under which it is filed but in any case not more frequently than once per year. All such applications must be in written form and signed by the beneficiary involved. The Agency of the United States of America shall recompute benefits only if the additional earnings would increase the average monthly earnings on which the current benefit was computed. The Agency making the recomputation shall send the Agency of the other State information concerning the additional earnings or periods of coverage and concerning the amounts of the current and recomputed benefits. If the total amount of the benefits payable by both States after recomputation is less than the total payable without recomputation, the recomputation shall be disregarded.

2. (a) The Agency of each State shall upon request send the other State information concerning additional earnings or periods of coverage credited under its laws to claimants who have been awarded benefits in accordance with Article 8.3 of the Agreement.

~~[(b) When an individual is entitled to a benefit from a State under Article 9.2 of the Agreement and subsequently meets the prerequisites for the receipt of a higher benefit from the same State under Article 9.1 of the Agreement, the higher benefit shall be paid automatically or upon request. In any case, the benefit shall be paid from the date that the prerequisites are met.]~~

PART IV

MISCELLANEOUS AND FINAL PROVISIONS

Article 9

EXCHANGE OF INFORMATION

1. The Competent Authorities of the two States shall develop operating procedures and forms for the implementation of the Agreement and shall establish by common agreement procedures for the expeditious processing of claims filed under the Agreement.

2. The Competent Authorities of the two States shall meet to establish procedures for the implementation of Article 12 of the Agreement.

3. At the specific request of the Agency of one State, the Agency of the other State shall furnish information or copies of documents available to it relating to any specified claimant.

Article 10

APPEALS

1. An appeal from a decision of the Agency of one State may be filed with the Agency of either State for the purpose of protecting the filing date.

2. The Agency with which an appeal is filed shall notify the Agency of the other State if it is determined to be an appeal from a decision of the other State. The State whose decision is being appealed shall follow its normal appellate process on an appeal, and shall notify the other State of its decision.

Article 11

CONFIDENTIALITY OF EXCHANGED INFORMATION

1. The use of information furnished by one State to another with regard to an individual shall be governed by this Article.

2. Any information transmitted by one State to the other State about an individual shall be treated as confidential by the other State and its officials receiving such information, including the officials mentioned in Article 15 of the Agreement, and shall be used exclusively for purposes of the implementation of the provisions contained in the Agreement and this Protocol or for the purpose of administering other benefit programs under the legislation of the other State.

3. The term "information" includes, but is not limited to, application forms, documentary evidence, medical evidence, certificates of election, any other papers furnished by an individual, notices to an individual, and all records, in whatever form, furnished by one State to the other which contain information concerning an individual, his earnings, the names of his employers, his present or past whereabouts, or his medical condition.

4. Use of information which does not pertain to or which does not identify a specific individual, such as in the case of statistical or research reports, shall be governed by the legislation or regulations of the respective States.

5. The right of an individual to inspection of records containing information pertaining to him shall be governed by the legislation or regulations of the State where the record is maintained.

Article 12

ENTRY INTO FORCE

This Administrative Protocol shall enter into force on the date the Agreement enters into force [1] and shall be coterminous with that Agreement.

Done in Rome, November 22, 1977, in duplicate originals in the English and Italian languages each equally valid.

for the United States of America

Joseph A. Califano, Jr. [2]

for the Italian Republic

Tina Anselmi [3]

[1] Nov. 1, 1978.
[2] Joseph A. Califano, Jr.
[3] Tina Anselmi